

*United States Court of Appeals
for the Second Circuit*



APPENDIX

75-1396-7-8

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P/S

United States Court of Appeals

FOR THE SECOND CIRCUIT

**Docket Nos. 75-1396
75-1397
75-1398**

UNITED STATES OF AMERICA,

Appellee,

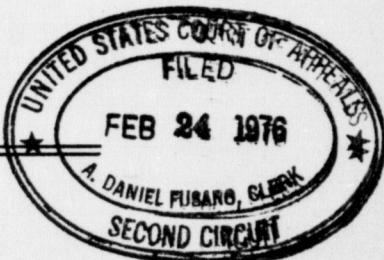
—v.—

MARCUS GEORGE HERO,
Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT'S APPENDIX

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CMW:bc
n-432UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

INDICTMENT

MARCUS GEORGE HERO,

74 Cr. 1054

Defendant.

INTRODUCTION

The Grand Jury charges:

1. At all times relevant herein Smoke Watchers International, Inc., 815 Fifth Avenue, New York, New York (hereinafter "Smoke Watchers") was a publicly-held corporation engaged in interstate commerce, in the business of franchising anti-smoking clinics and products.

2. At all times relevant herein, Smoke Watchers had franchises established or in the process of being established in 17 states, Puerto Rico, Canada, England and Australia.

3. On or about March 15, 1973, Smoke Watchers presented an application for a \$350,000 loan to Bankers Trust Company, 1107 Broadway, New York, New York (hereinafter "Bankers Trust"), 90% of which loan was to be guaranteed by the United States Small Business Administration (hereinafter "S.B.A.").

4. On or about March 27, 1973, said loan application was approved by Bankers Trust and forwarded to the S.B.A. for approval.

COUNT ONE

The Grand Jury further charges:

1. From on or about March 15, 1973 up to and including July 5, 1973, in the Southern District of New York and elsewhere, MARCUS GEORGE HERO, the defendant, unlawfully, wilfully and knowingly did combine, conspire and confederate and agree with others to the Grand Jury unknown to unlawfully, wilfully and knowingly obstruct, delay and affect commerce

DAW:bj
n-432

BY MEANS OF EXTORTION.

A 2

OVERT ACTS

In furtherance of said conspiracy and to effect its objects thereof, the following overt acts among others were committed in the Southern District of New York:

1. On or about March 20, 1973 MARCUS GEORGE HERO would and did place telephone calls to Nicholas Costa of Smoke Watchers and among other things in those calls demand of him the approximate sum of between \$60,000 and \$80,000 to be paid to MARCUS GEORGE HERO and others in order that the Smoke Watchers loan application, then pending before S.B.I., continue to be considered by S.B.I.; and further threatened Costa that should Costa and Smoke Watchers fail to pay the said monies Smoke Watcher's pending application with the S.B.I. would be disapproved and rejected by the S.B.I.

2. Thereafter, upon Costa's rejection of the defendant, MARCUS GEORGE HERO'S demand, Bankers Trust was notified by an official at I.B.A. that, among other things, the Smoke Watchers loan application would not be further considered by the S.B.I. and that the application was being rejected by S.B.I. from further consideration.

3. Subsequently MARCUS GEORGE HERO would and did call Nicholas Costa and reiterated his demand that monies be paid to HERO and others, in order for the Smoke Watchers application to be considered by the S.B.I. and that the sum of \$60,000 must be paid to MARCUS GEORGE HERO upon disbursement of the loan, to Smoke Watchers, said money to be given to others, and that in addition \$5,000 worth of backdated stock in Smoke Watchers must be given the defendant MARCUS GEORGE HERO.

4. MARCUS GEORGE HERC would and did instruct Nicholas Costa upon Costa's consent to demands to bring his demands to a range for the bank to call S.E.A. and ask for a reconsideration of its rejection of the Smoke Watcher loan application.

5. Thereafter the Smoke Watcher loan application was considered and approved by the S.E.A.

(Title 18, United States Code, Section 1951)

COUNT TWO

The Grand Jury further charges:

On or about March 23, 1971, in the Southern District of New York, MARCUS GEORGE HERC, the defendant, unlawfully, wilfully and knowingly did obstruct, delay and affect commerce by means of extortion and attempt so to do, in furtherance of a plan and purpose to extort money and property for himself and others from Smoke Watchers, by inducing Nicholas Costa, the president of Smoke Watchers to consent to pay the approximate sum of \$50,000 in U.S. currency and approximately \$20,000 worth of stock in order that Smoke Watchers may obtain a \$50,000 loan from Banker's Trust to be guaranteed by the S.E.A.

(Title 18, United States Code, Section 1951 and 2)

A 4

The following is a telephone conversation
between NICHOLAS COSTA and MARCUS GEORGE HERO on

APR 26 1973

USA 33s - 475
(ED. 4-23-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N.Y.

GX 10 *rt*

NY 50-LEW

HERO: Hello.

COSTA: MARK?

HERO: Yes.

COSTA: Hi Babes! How are you?

HERO: Who's This?

COSTA: NICK.

HERO: Hi ah. NICKO.

COSTA: How are you?

HERO: Good.

COSTA: Good. Good. What the hell is happening?

HERO: No news, except what I told you yesterday. He confirmed yesterday that it was approved. He said that everything's okay. 100%.

COSTA: Bit yeah, but didn't you tell before, that what is it the security clearance?

HERO Right.

COSTA: Was automatic after ten or twelve days and it didn't need....

HERO: It's about time that exact, about ten or twelve days if nothing derogatory comes through, it drops. So it becomes automatic.

COSTA: You sure your guys giving you the right information?

HERO: Oh yeah. There's no reason not to. I worked with this guy a long time and he's never mislead me once. not once.

COSTA: Yeah, but you said yesterday there was other ones going through, but Jesus, their not getting ours?

HERO: Hah?

COSTA: Their not getting through for some reason..

NY 50-NEW

HERO: Well, ah, they may have delayed in sending their S and I That's the only thing I could think of. It wasn't sent the exact date, maybe it was sent on Monday or something like that.

COSTA: You think so?

HERO: Yeah. That's the only thing I could think of.

COSTA: Because I'm getting a little nervous.

HERO: Yeah, well, I was getting nervous yesterday too, because I have a feel for these things.

COSTA: Yeah.

HERO: But I questioned him up and down and he assured me up and down there was nothing wrong with okaying. It was all sitting there approved. So anyway, he's waiting for the S. That means S and I, so that's the only thing and he said there's no problem there. It's just that we want to treat this like, ah, you know, all the way. Because, ah, because he told me, because of the previous background, we want to make sure everything's everything's in order. Every call and everythings in place.

COSTA: So, you have no bad feelings about it?

HERO: Ah, no. No, because I dealt with this guy, ah, he handled all the situations you're familiar with and he's always done, ah, you know, exactly to his word. Whatever he's ever told me, he's never, never, never And I haven't only done one dealing. I've done many, many, many dealings and many small and big situations. He's always been exactly to his word. And I know his tone of voice.

COSTA: How about...

HERO: Come on. Don't worry about it. I told you it's okay.

COSTA: Yeah, the only....

HERO: Well he talks to me that way.

COSTA: Yeah, the one I'm familiar with was MINNI and I didn't know if anybody, that anybody, was involved.

NY 50-NW

HERO: Why, no, you know, that went right through. He handled that.

COSTA: Oh he did?

HERO: Oh sure, same guy.

COSTA: I didn't know that. I thought....

HERO: Oh yeah, yeah, yeah. Same guy handled it.

COSTA: I see.

HERO: You know, he went right through.

COSTA: Ah ah.

HERO: And he handled another one that JERRY and I were involved with and that was..

COSTA: Who was, who , who was who?

HERO: JERRY and I. You know handled another one. Well, JERRY and I handled it.

COSTA: Oh.

HERO: And that went right through also, the same way.

COSTA: I see.

COSTA: Okay, ah, keep me informed. I'm sitting on pins and needles.

HERO: As soon as he tells me, I'll burn the wire.

COSTA: Okay, Kiddo.

HERO: Right.

COSTA: Take care. Bye!

A 8

The following is a telephone conversation
between NICHOLAS COSTA and MARCUS GEORGE HERO on

APR 30 1973

NY 50-NEW

OPERATOR: Yes.

COSTA: Yes. Is MARK HERO still there, please?

OPERATOR: One minute please. May I ask whose calling?

COSTA: Yeah. NICK COSTA calling.

OPERATOR: One minute please.

HERO: Hello.

COSTA: Yeah, MARK, how are you?

HERO: Hi NICHOLAS.

COSTA: Good. Listen, I talked to JOE COOGAN at the bank
He called me back after you told him to make a
general inquiry this morning.

Costa!

He called me back and he said he spoke to a guy by the name of RUBEN at the SBA and that RUBEN had done his thing. This is the word that the bank used to me. That he did his thing on it and sent it forward and that he doesn't know where it is at this point and that as far as he knows, it's doing whatever has to be done. In other words, what he indicated, I think from the way JOE said to me that he approved it at his level, at whatever level that is and then send it on for other people to look at it, whatever else has to be done with it and he has lost contact with it since. So JOE said well, there's nothing else I could do that's the only person I could talk to is the guy that was taking care of it.

HERO: That was exactly what he wanted us to do so we did it.

COSTA: Yeah, but where does it stand now?

HERO: Well, I'm gonna find out. He said it was approved and all that. He just wanted me to do this, why? I don't know.

NY 50-NEW

COSTA: Yeah, why?

HERO: I don't know. I'm gonna find out when I speak to him. I couldn't speak to him on the phone. He called me in the morning from the office there. He just told me exactly what he wants done. So I called you and told you to do it.

COSTA: Does this sound weird to you?

HERO: I don't know what it is. He told me it was approved. That's all he told me. It's approved, he said.

COSTA: Alright. You want me to call you tomorrow morning?

HERO: Yeah, if I have any information, I'll know where to reach you.

COSTA: Alright. SAL is gonna be over my office tomorrow morning and I think he wanted to talk to you too. You know, he's getting a little nervous so he'll be over here around 11:00 so we'll give you a buzz at home.

HERO: Okay.

COSTA: Okay, kiddo.

A 11

The following is a telephone conversation
between NICHOLAS COSTA, SALVATORE CATALE and MARCUS
GEORGE HERO on May 1, 1973.

NY 50-NEW

COSTA: Hello.

HERO: NICK.

COSTA: HI MARK! Alright, listen. I talked to the bank and they, they are going to call to find out what the status is. So they'll call like you directed and ask for this Mr. Big. SAL is here and he wants to talk to you.

HERO: Alright

COSTA: Fill him on what's happening.

HERO: Alright.

CATALE: Hello MARK.

HERO: Hello Handsome SAL.

CATALE: How are you doing, Sir?

HERO: Good. Good. How was your trip?

CATALE: Fantastic.

HERO: Good. Vacation good?

CATALE: Yes.

HERO: Very good.

CATALE: What's going on?

HERO: Nothing. It's progressing properly.

CATALE: What are they doing?

HERO: Well. Their doing what they have to do because this is a very very touchy situation, so their doing it by the book and everythings been approved on it and it's sitting there, but I don't know. He called me by phone and spoke to me in quick language and he told me what to do today. But he said it's been approved on it.

CATALE: When does NICK expect to get the final word?

HERO: Probably today or tomorrow I guess. It'll be out of the. That's why he made me make this call. Uh, evidently, their all on the ball team. We've got all the basketball players we need.

CATALE: I see. You have a lot of people in there?

NY 50-NEW

HERO: Yeah, Yeah. Yeah. So, their setting very cautious. When this comes out, everything will be so improper, uh, so proper, that'll be the most proper application you ever saw.

C
CATALE: I see.

HERO: That's why their doing it. Because of the history and because of the first initial step went in and out you know. And because of all this, they want to make sure everythings in line, every colon, every comma, every dot. So theres no good reason for them to raise a finger ever. This is what their doing and I think I would rather do it that way.

CATALE: I could appreciate that.

HERO: Yeah. Yeah.

CATALE: Uh, what arrangements did you make for NICK getting your stuff?

HERO: Well, he said that. He said that he wanted you to han't it, so I don't know. For the \$60 for the two tickets, the show. He told me it was \$60 for the tickets.

CATALE: I see.

HERO: For the basketball games.

CATALE: I see.

HERO: You understand?

CATALE: Yes.

HERO: So, you know. We're gonna have that.. Don't send me a check. When you see me give me cash on that. You don't have to send me a check for the tickets for the basketball game.

CATALE: Okay.

HERO: And, he should be able to do it. How long would it take you to do it? 48 hours after they leave to get the ticket or what?

CATALE: Something like that.

HERO: Yeah. Okay. NICK said he'll take care of the uh, the thing.

NY 50-MEM

CATALE: What's the other thing?

HERO: For me.

CATALE: What's that?

HERO: Uh. I'm gonna buy a couple of shares. I'm speculatin' and...

CATALE: Are you gonna buy some of the Smoke Watchers stock?

HERO: Yeah. Yeah.

CATALE: I see.

HERO: Well. You know what I'm talking about. I'm not gonna actually, you know..

CATALE: Yeah. Yeah. I guess so.

HERO; Yeah. You see, NICK knows it, so....

CATALE: I see.

HERO: So. That's it. But, I, we thought it would be the best way of doing it because of all the history of the patient and uh, he had a couple of cases of pneumonia and last time he went in and he had to withdraw from the hospital quickly, so because of all that, Uh, they thought this was the best way of doing it. So they went through eligibility, they went through everything, everything. So they could stand up to anything now. But this is what he told me. He said he gave NICK the message today and do that call for the tickets.

CATALE: Listen. When it's all over, maybe you and the boys and I go out and go have a drink, whatever.

HERO: Good. Good.

CATALE: Okay?

:HERO: Good.

NY 50-NEW

CATALE: Maybe we'll get to meet them. We'll sit down, who knows, with the things that are happening today, maybe they may need me.

HERO: Right.

CATALE: Okay?

HERO: Okay.

CATALE: Okay, bye bye.

HERO: Bye.

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A 16

The following is a telephone conversation
between NICHOLAS COSTA and MARCUS GEORGE HERO on

MAY 1 1973

HERO: Hello.

COSTA: Mark?

HERO: Yes.

COSTA: Hi. NICK. I've got a message you called.

HERO: Yes. NICK. Who spoke to the R.D. Was it BLOCK or the other guy?

COSTA: I don't know. All I did was when I spoke to the bank this afternoon, earlier, it was about 3:00 and then I was jammed up in a meeting and I couldn't get back to him. At that point, I think JOE COOGAN had put in a call to the director and uh, the director had not returned his call. He was in a meeting.

HERO: Oh. Up till 3:00

COSTA: That was up to 3:00.

HERO: Okay.

COSTA: Now, at that point, he said he was gonna put in another call. He put in another call. I called him quick back and he said he was still in a meeting and that he had left word that the bank called at about 3:30 and then had gotten back to him.

HERO: Okay. I'll find out if the call went through or not.
Hold on.

COSTA: Alright.

HERO: Yeah fine.

COSTA: You'll find out?

HERO: Yeah. Sure.

COSTA: Alright, and I'll call you tomorrow.

HERO: Yes.

COSTA: What time is a good time? You'll be in, in the morning?

HERO: So. Let my man get in there tomorrow, and he probably call me from the office. I'll call you.

COSTA: Okay.

HERO: Okey doke. Goodbye.

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A 18

The following is a telephone conversation
between NICHOLAS COSTA and MARCUS GEORGE HERO on

MAY 2 1973

A 19

NY 50-NEW

UNK FEMALE: Hello.

COSTA: Hello. Is MARK HERO there please?

UNK FEMALE: Yes.

HERO: Hello.

COSTA: Hello MARK.

HERO: NICKO. How are you?

COSTA: I'm not good.

HERO: Why? What's the matter, NICKO?

COSTA: The bank called me and they called and left messages.

HERO: He never responded?

COSTA: The guy never called him back, so they said that

COSTA: They don't want to talk to him. And they probably have nothing to tell. The bank says why don't you call him. I said I can't. HA HA HA. I'm getting absolutely uptight over here.

HERO: I'm going to call.

COSTA: Alright.

HERO: Alright, let me take that up.

COSTA: Did you. You said you were going to do that today.

HERO: Yeah. I had to get out. I had an emergency today, but I'll take care of it, first thing in the morning. But you,

COSTA: As far as I'm concerned, something is wrong.

HERO: No. There's nothing wrong. He tells me this, there's nothing wrong. And they called and left several messages with the secretary, right?

COSTA: Right.

HERO: Alright. Okay. We'll call back. Let me check it though, okay? They said everything's fine,

NY 50-NEW

COSTA: Can't your guy go to him? and find out what the hell the problem is?

HERO: I don't know why he wants this done. It's unusual, but it's not uh, why they want the bank to call the director, I don't.... The only thing I could think of is this guy wants the authority to do what he has to do.

COSTA: Did the S and I clearance come in yet?

HERO: It must have been cleared. It must have been cleared.

COSTA: It never takes that long. Does it?

HERO: 10 days, 10 or 12 roughly, business days. Alright. Let me check and I'll get to you tomorrow.

COSTA: Okay, because I, you know.

HERO: Well, he said it's been approved. Okay, I'll get a hold of him.

COSTA: Right.

HERO: Okay bye bye .

21
A 21

24

The following is a telephone conversation
between NICHOLAS COSTA and MARCUS GEORGE HERO on
May 8, 1973.

NY 50-NEW

A 22

HERO: Hello.

COSTA: MARK?

HERO: Yes.

COSTA: NICK COSTA.

HERO: How are you NICK?

COSTA: I'm fine.

HERO: IT's a girl.

COSTA: No. Nothing yet.

HERO: Nothing yet.

COSTA: It's, it was a false alarm. And that sure was..

HERO: Ah. It'll come.

COSTA: Listen, I'm upset.

HERO: Why are you upset?

COSTA: Well.

HERO: Did you see the secretary?

COSTA: Yeah. She gave me the message. I don't quite understand..

HERO: they were here yesterday and as soon as they left, I called. It was about 1:00 after lunch, or something like that. So, I called. I had a talk with them and they said it was approved. Do not worry. It is totally, absolutely approved.

COSTA: Listen. I want to talk to you. Can you come into New York tomorrow?

HERO: Uh.

COSTA: We'll have SAL here too. Let's just sit down and talk this whole thing out. I'm getting nervous and I would like to sit down and talk to you.

NY 50-NEW

- COSTA: Can you come in around noontime?
- HERO: Uh, I'm scheduled to go to Long Island tomorrow.
- COSTA: You can't come in for...
- HERO: No.
- COSTA: A half hour. What time are you going to Long Island?
- HERO: Well. I'm waiting for confirmation. If I don't go to Long Island, I'll come into Manhattan.
- COSTA: Well. Can you come in early, like before you go to the Island. Just for a half hour. I'll buy you a cup of coffee. We'll chat for awhile.
- HERO: Well...
- COSTA: Come in around 10:30 in the morning.
- HERO: Well. NICKO, what's the purpose of this?
- COSTA: Well. I want to talk to you.
- HERO: Yeah. I didn't know you liked me that much.
- COSTA: Ha ha ha ha.
- COSTA: It won't take but a half hour and I just want to sit down..
- HERO: Well. There's nothing more I could tell you than I told you. They were here yesterday at 1:00 at my house. They left and it's sitting on the desk all approved with a ribbon around it. We were playing it to the hilt because we don't want any problems later on because it's past history, and that's exactly what they told me. He said we're playing everything. It's going to be perfect, perfect. It's approved. It's sitting on the guy's desk. So, I said to him, Don't foul me up on this. MARK, we never left you off once and we're not going to do it this case. We tell you. We give you our solemn word of honor. It's approved and we're playing this because of a deep deep past history and many many people that were involved so far, politic and otherwise, we want to make sure that if anything stands up, this stands up.

NY 50-NEW

COSTA: Alright. Look it. Come in and satisfy me. Just sit down with me for a half hour and let's kick it around and let's see. I'm very....

HERO: What time are you coming in in the morning?

COSTA: I'll come in when you want me to. What time do you want me here, 9:30?

HERO: No. No. Look, if I can't make it tomorrow, I'll be in Thursday.

COSTA: Alright. What time do you want me to call you?

HERO: I'll call you in the morning. If I can make it, I'll call you. If I have to go to Long Island, I can't be in both places. But they definitely assured me yesterday and I was very satisfied after our conference. They came to my house. They were here... As soon as they left, I picked up the phone and I called and your gal said you were out to lunch.

COSTA: Alright. Let me call you in the morning. I'll call you about 9:30, a quarter to 10:00.

HERO: Okay.

COSTA: And if you're not there, call me about that time.

HERO: Okay.

COSTA: Alright. And try to figure it in so you spend a half hour with me.

HERO: Okay.

COSTA: Okay.

HERO: With nervous SAL?

COSTA: Both of us.

HERO: Nervous SAL.

COSTA: Nervous SAL. Okay...

HERO: So what are you expecting, twins?

COSTA: Just a healthy baby is all I'm expecting.

HERO: As long as it's healthy, that's all. But with your luck, you'll come with twins. The, uh, father's day is just around the corner. 4

NY 50-NEW

COSTA: Mothers Day comes first.

HERO: Yeah.

COSTA: Alright. Try to make it tomorrow.

HERO: I have to go to the Island.

COSTA: Can't you stop here first. Come on. Do me a favor.

HERO: If I'm not jammed up.

COSTA: Okay.

HERO: I've got to make a living.

COSTA: Okay. If worse comes to worse, I'll even come to get you. I want to talk to you.

HERO: Okay.

COSTA: Okay kiddo. I'll talk to you in the morning.

HERO: Okay. Bye bye.

COSTA: Okay bye.

A 26

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The following is a telephone conversation
between SALVATORE CATALE and MARCUS GEORGE HERO on

MAY 11 1973

NY 50-NEW

HERO: Hello.

CATALE: Mark.

HERO: Yes.

CATALE: SAL here.

HERO: Yes SAL.

CATALE: How are you?

HERO: Good.

CATALE: Good. Listen, sorry that you couldn't make it today.

HERO: Well, let's make it for Tuesday.

CATALE: Tuesday, hah. Fine, what's going on, anything new, have you heard?

HERO: Uh, no they told okay on that book. They approved that book, the distribution of the book.

CATALE: Uh huh.

HERO: And everything's okay on. Hah, they just said there was extra precaution reasons. They got on their knees and told me. They said it's 100% okay.

CATALE: Uh huh. Strange

HERO: Yeah. It is a little unusual, uh, but the said to uh, they said look if it wasn't they would have returned it.

CATALE: Uh huh.

HERO: They assured me that they were doing this for up and down.

CATALE: I see.

HERO: So, uh, we'll discuss that Tuesday.

CATALE: Okay, fine. We'll see you here then Tuesday to discuss this.

NY 58-1835

The following is a telephone conversation between NICHOLAS COSTA and MARCUS GEORGE HERO on May 17, 1973:

HERO: Hello.

COSTA: MARK.

HERO: YES.

NICK: NICK, WHAT THE HELL HAS HAPPENED?

HERO: Well, nothing more than I told you, I am waiting for his call to try and get some sort of date.

COSTA: No MARK, no, no. I got a call yesterday.

HERO: Yeah.

COSTA: Late afternoon, I got a call from JOE PALMIERE, he is a guy who works at a bank.

HERO: Yeah.

COSTA: The American Bank and Trust, he lent us some money, oh about four or five weeks ago.

HERO: Right.

COSTA: Before he lent us the money to us, he said call this. He has a friend at SBA because they put through SEA loans

HERO: Yeah.

COSTA: And huh, the guy that he knows at SEA that he has dealt with putting in through these loans called him back and said yes the loan is in the hopper and it looks like it is approved and everything else. So that made me feel a little better and he lent me the six thousand.

NY 58-1835

HERO: Yeah.

COSTA: Well, JOE PALMIERE called me yesterday.

HERO: Yeah.

COSTA: And the loan has been disapproved MARK.

HERO: Well let me just call right now

COSTA: The loan has been disapproved.

HERO: Well let me call.

COSTA: I would like you to come in MARK alright call, call
me right back and then I would like you to come in.

HERO: Huh, look.

COSTA: We got to do something about this MARK, I am really
up tight.

HERO: Well NICK, I can't do do and talking to you Well
it's like its been ^{resent} ~~redun~~ to you, OK.

COSTA: Go ahead and call, Go ahead and call.

HERO: I don't know JOE PALMIERE ell I know is my people, OK.

COSTA: I understand.

HERO: Right.

COSTA: Call me right back.

HERO: Don't worry.

NY 58-1835

The following is a telephone conversation between NICHOLAS COSTA and MARCUS GEORGE HERO on May 17, 1973:

HERO: Hello.

COSTA: Yeah, what happened? I'm waiting for your call back.

HERO: I expect him to call back in half an hour. Soon as I speak to him, I can't huh, well, I'll call you, I'll tell you what. I called him, they expect him back in half an hour. I left a message, very important, that he call me. So as soon as he calls me, which I expect in another couple of, I call you right back.

COSTA: OK.

HERO: Alright.

COSTA: So you didn't find out anything.

HERO: No, he is not in. They expect him back in half an hour.

COSTA: OK, OK.

HERO: Soon as he, he is in today, he is in.

COSTA: He is in today?

HERO: Yeah, they expect him back in half an hour. Soon as he gets in, I'll speak to him

COSTA: In other words, he can't call you back on that phone, there, where he is at.

HERO: No, he, they, he knows how to call me.

COSTA: Oh, Oh, No, I know that. I'm sitting here on pins and needles.

HERO: I know.

COSTA: I get right back to me.

HERO: Bye, Bye.

COSTA: Bye.

FMT:
1.

NY 58-1835

The following is a telephone conversation between SALVATORE CATALE and MARCUS GEORGE HERO, on May 17, 1973.

HERO: Hello

CATALE: Hello, MARK, SAL here

HERO: Ok, can you talk?

CATALE: Yes Sir.

HERO: Ok, I found out all the poop.

CATALE: Ok.

HERO: Here's the story. That loan has not been disapproved by SBA. Has not been disapproved by SBA. That is fully approved. Now here is the problem as they related to me. Ah, there is a possibility that some outside agency like the SEC, is, the, the delay they said, is been held up by some other agency. They think it is the SEC. Alright? Now. Here is what is going to happen. If that other agency comes out clear the thing, it will be, ah, approve, its approved! there's no question about that end. Will be released approved. If that other agency does not come out clear. It'll come to the bank and the reason will be given to the bank, the reason why. The other agency Let's assume its SEC, ok? They will give the full reason. Now if NICK can overcome that reason, then the thing will be released approved. If he can not over come that reason, then that's a problem with him and the other agency. As far as SBA is concerned.

FMT:mum
2.

NY 58-1835

it is fully approved and waiting for the release of this other information. Ok?

CATALE:

Hmm.

HERO:

And this is what's it.

CATALE:

How did the SEC get into this?

HERO:

It's some oth. They don't know, he doesn't know he's going to, it's some other agency involved in there, I'am not going to say it's the SEC. But it's not SBA, SBA is finished and fully approved

CATALE:

You know. MARK, going back, if you recall?

HERO:

Now, does NICK have any problems with any other agencies, or anything like that?

CATALE:

Not to the best of my knowledge.

HERO:

Alright then it should be released, It's not being held by SBA, I'am telling you that right now. It is not being held by the agency. That thing is fully approved. And as far as he knows, it has not been disapproved. It has not been disapproved,

CATALE:

MARK, let me just go back a couple of weeks,

HERO:

Yeah.

CATALE:

So let's say about five, six weeks, what ever it is.

YF

A 33

FMT:mm

3.

NY 58-1835

- HERO: Yeah.
- CATALE: Right, the evening you called me.
- HERO: Yeah.
- CATALE: That you found out that this was in there.
- HERO: Yeah.
- CATALE: Do you remember?
- HERO: Yeah.
- CATALE: You called me, at that time you had no knowledge of it.
- HERO: No, until they informed me.
- CATALE: Until they informed you?
- HERO: Right, They called you and they called you up and then you called me on that.
- HERO: Right.
- CATALE: Right? And now its' been five weeks?
- HERO: About six, seven weeks.
- CATALE: Six or seven weeks.
- HERO: Right.

76
FMT:mm
4.

A 34

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CATALE:

Since these fellows who ever the high echelon, what every they are supposed to be. Have been working with this, approved, disapproved. To tell you the truth, NICK, is very discouraged over the whole damn thing.

HEOR:

Well, I can tell you facts, I'am not kidding you. The agency is finished, I can tell you one thi the agency is finished with their work. It is fully approved, sitting there. Its it its fully approved sitting there. There, this is a fact.

CATALE:

I can't understand, these fellows huh, called you.

HERO:

They, no, let me tell you. If something else intervenes in between while its' in the agency. They can not control it. They can only control the actions of t agency. Alright?, That they said is approved, fully approved. I a telling you right now. There is question. If this thing is disapproved, it will not be because of the agency, Alright? A this, this will not be a matter, it will be a matter of record tol to the bank. It'll be because of another agency. Not because of SBA. Alright? And this will be out because if this comes out it' come out to the bank, and the bank will tell it to NICK. It wi tell him if, if this happens, I don't know. That's why its being held up. If any report comes out they will not say because credit

FMT:mm
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NY 58-1835

wise or anything the SBA sent out. They have not turned it down. It'll come to you say, this particular agency, not meaning, not SBA, X Agency has come acro... has sent us this report. Now if this is not true, NICK, will overcomes it, fine, It's released. If it doesn't then he has a problem, but I'am telling you, what they told me right now. This is not SBA. SBA is fully finished and approved it I'am telling you right now. And what I'am saying will be borne ou later on, maybe in a few days or in a week will be borne out. So, he said it's not SBA. SBA is finished with it, they have done their job. It has been approved. They can't do any more than finish and approve it.

CATALE:

These are the same fellows, that ah,

HERO:

Handled all the rest of them.

CATALE:

That. Alright, listen I think at this point that you have to ma a trip in and sit down with NICK and myself and see what the hell can be done at this, you know, on this.

HERO:

I can't do anything! They told me exactly what I'am telling you what, what I'am going to tell you when I see you, I'am telling you right now. This is exactly the truth I am telling you.

FTM:mm
6.

NY 58-1835

CATALE:

Yeah. But do they realize if there is no deal there is no money?

HERO:

They there're not concerned with money, they know this. They are not asking for, look, of course. You know what the thin is. It is subject to closing. There's no tickets for the show. They know they don't get any tickets for the play unless it closes, they know this. They ar not asking for anything. They, they, you know that. You know better than that.

CATALE:

It is very disheartening.

HERO:

I am telling you, it is not, this is not SBA involved anymore, Ok? I'am telling you this. If any declination should come up, if it should come up, it will not be a SBA declination. Alright?

CATALE:

Ok.

HERO:

It will not be a S, it will be some other agency. But he said this may not be true, it may, may not up to light yet. It may not. It may be nothing wrong and come right through. But, its's being held back not because of the agen not because of them, but some ot.. agency, now if it, there's three things that are going to happen here. Alright? Number one, it'll be released with an approval,

FMT:mm

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NY 58-1835

Alright?

Number two, it will not be released, there'll be a rejection, but the rejection will indicate to the bank that it is not because of the agency but because of another agency and it will state the reason, at the point, NICK, will have to overcome what every reason it may be and then it will be released. Alright? and that, that's it. Or, if he can't overcome that reason, then, then, but he said this will not come as a result of this agency. This agency has done its job. They of course, they don't expect to go to the movies unless it closes. So we're not pressing anything in that area. Alright?

CATALE:

Yeah. Oh right, listen, if we don't hear anything by next week, let's meet the three of us. Sid down, because NICK is really up the tree on this.

HERO:

Alright. I know NICK is a very nervous person, but I, you know, I want to see this broadway show too. And, ah, everyone wants to see the broadway show. You want to see the broadway show. We all want to go to the ball game. Ok. But, the, listen, when the guys are leveling with me, and telling me his, what is there to hide, there is no reason for, if this thing has been rejected because of them, they'd tell me so. They told me last time, you know, it was rejected because, you know, they couldn't handle it, they told me this. There's no reason for the

50

A 38

50

FMT:mm

8.

NY 58-1835

to kid around and tell stories, I mean, We're big boys. No reason for this, whatever the truth they tell me. And I tell it right on to you. So, I have no reason for, the need to, to, ah, to think otherwise, as a result. Because if they couldn't do it, they would say, MARK, we can't do it. And I'll tell you SAL, we can't do it, period. We can't get the ticket for the Met game, that's all. And, ah, there no other thing I can do for you. But, they tell me no, they are not going to go fabricating a story like this because they can't get the tickets, you know, they're not going to fabricate, they're telling you, that, ah, that, ah, they did their part, its finished, there's nothing else they can do, they're finished with that. It involves another agency, and the report will be forth coming shortly.

CATALE:

They actually, they actually told you that all their parts had been.

HERO:

Right! Nothing they can do, its all, they can not reject it because of that agency. Because there is nothing they rejected, everything is positive, Everything From A to Z.

FMT:mm

9.

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CATALE:

Jesus Christmas, I don't know what to say, I really don't.

HERO:

I don't know if NICK has any problems with any other agencies or any other, not that agency, the agency is ok. If he had any problems in the past or recent or something, I don't know. This I don't know. But that's what they're telling me. He said there is no one on this earth can reverse it because of this agency. It has been approved, finished.

CATALE:

Yeah. But how about now, if NICK turns around and says to them, Screw you, I am not going to pay you anything.

HERO:

To who?

CATALE:

To these fellows.

HERO:

Well, I don't think it would be a very gentleman thing to do. When they did their part.

CATALE:

Yeah, of course you know NICK's temperament. He's waiting all this time, and everything and he turns around, he gives, let's say they they it approve it, and he turns around and says SAL, I am not going to give them anything.

HERO:

Well, he's putting me into a very difficult position. He's hurting me, basically. He's hurting me.

52

A 40

52

FMT:mm
10.

NY 58-1835

CATALE:

As I say though, it has been seven weeks.

HERO:

Well look, look, SAL, All I can say to you is this that no one promised you time all they promised was a delivery. Ok. of a very difficult situation. They did their part. They're not asking for anything at this time. They did their part already. They're saying what the truth is. They're telling me the truth. They've never lied to me. They have no reason to lie. If they couldn't do it, they'd tell me they couldn't do it. There's no reason and I am telling you, what the reason is. Some other agency is holding it up, alright? But, they're, they're finished. And it comes out because of another agency, not because of their agency, they did their part, they're finished. I don't know how, In fact he got a confirmation last week, from his friend, PAL, well you know, PAL, whatever his name is.

CATALE:

Who?

HERO:

Well, didn't that other, his, ah, bankers friend.

CATALE:

Who's banker friend?

FMT:mm
11.

NY 58-1835

HERO:

NICK's banker friend, told him that it was, ah, you know, approved, and in the hopper. Look good, NICK told me this, this morning.

CATALE:

I see.

HERO:

PALMIERI?, is that the one I'm talking about?

CATALE:

Oh yes, yes, yes.

HERO:

He even confirmed this, Now he is the one, who called and said no it has been disapproved.

CATALE:

You know, the part that is most discouraging is that, two days after the loan is in the house.

HERO:

Well, let's talk in the, yeah.

CATALE:

That, it comes back, via your call, Right?

HERO"

Yeah.

CATALE:

They grabbed a hold of it. Who ever they are, Ok?

HERO:

Yeah.

CATALE:

And that, that's the status its been since.

HERO:

They were ready to return it. Not my people, the people who ever came to us, were ready to return it, they didn't want it. Alright? They were ready to return it.

54

A 42

54

FMT:mm
12.

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CATALE:

Well, the only thing I can think of, is when NICK comes in I'am goint to suggest maybe, we can hurry it up through, we can, ah, talk to them and see if they want more maybe, Is that it?

HERO:

No, you missed the point entirely, this is not the point, they are not holding off for this. I just told you the reason. I am telling you, I am telling you the facts, and you turn around and tell me another story.

CATALE:

Wait a minute, MARK, it wouldn't take any additional cash to get it through the SEC or any other agency.

HERO:

I don't know who is handling that, we have nothing to do with that, we have nothing, nothing, nothing, nothing to do with that. Just one agency, that's all I'am more concerned about. I have nothing to do with that agency. No one as far as my people are concerned, want anything, they're not looking for anything. Ok?

CATALE:

Ok, MARK. I'll get a hold of

HERO:

I'am leveling with you, you don't believe me.

CATALE:

No, that's not the question, it's just that its so, dragged and dragged.

55
A 43

FMT:mm
13.

NY 58-1835

HERO:

I know, I know, but this is not.

CATALE:

Asking for an awful lot of
stuff there, we are not talking
about cabbage.

HERO:

I know, but they are finished
with it. They are totally
totally finished, and they did
what they had to do. There
couldn't be a better thing for us.
What I am telling you, told me the
is another agency involved that is
investigating. Ok? That's all I
can say.

CATALE:

Well, get back to your men and
see what the hell they can come
up with.

HERO:

Now, it's all according to what
comes out of that report. There is
nothing they can do. It's not the
ballywick, They handle this this.

CATALE:

Alright, let's.

HERO:

They handle, look, they handle left
field stand.

CATALE:

Let's get together with NICK then.

HERO:

They handle left field stand,
that's their territory, that's it.
They can't control the right field
stand.

FMT:mm

14.

NY 58-1835

CATALE:

I see, alright, can we, can we, get together then with NICK. When you get some more definite word on it.

HERO:

Yeah, that's all, you know, this is exactly what they told me today.

CATALE:

Ok, So when you get definite word, get back to NICK or myself, and we'll set up a meeting.

HERO:

He said, if they get a rejection, it's going to be not because of this agency, they're telling me because of another agency. Not because of this one.

CATALE:

Alright.

HERO:

If that comes through. But if it doesn't, then it will be released. In other words, another agency has told to hold it up, do not do anything. Until they finish what they are doing. That's what I am telling you. Do you understand?

CATALE:

Hmm.

HERO:

So they can't do on it, it's approved, sitting there on the R.D.'s desk. Approved.

CATALE:

Ok, then MARK, I thank you very much, and ah, we'll see what happens, we'll get an appointment.

FMT:mm
15.

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- HERO: Well look, you better tell NICK I don't want, you know, I don't want to hurt me now.
- CATALE: What's that MARK?
- HERO: You know, the remark you made before, what if he decides to change his minds about the ah.
- CATALE: Well you can't blame the guy, you know NICK's temperament.
- HERO: Well what do you what? These people did their job. What do you want them to do. Now, after they did all the work, say, no. It's not their fault..
- CATALE: Well, run against here.
- HERO: Huh?
- CATALE: That, well, its not NICK's fault either.
- HERO: Alright, what if he gets it. It's approved and he gets it. What's he supposed to say now, now you don't get anything. It's been bullshit for seven weeks or eight weeks. Is that what he is going to tell them?
- CATALE: Could be.
- HERO: Oh then, I'd. You better tell me this right now. You better tell me this right now.

FMT:mm
16.

CATALE:

I can't say what NICK, NICK's ideas.

HERO:

I am not going to go on the limb,
I'm not going to limb for this type of situation.

CATALE:

Well, ah, MARK, I can't, I'm just this is a discussion just between you and

HERO:

Well alright, I don't want discussions later on.

CATALE:

Yeah.

HERO:

Alright, NICK, better tell me today this is what he wants.

CATALE:

Well NICK, is not here, He's with his wife as you know. She is, He'll get back to you. You, get back to your people find out exactly.

HERO:

Well, I told you exactly, I can't tell you anymore.

CATALE:

No. No, I don't mean that, I mean to get in with, to meet with NICK, OK.

HERO:

All I, look, if this is NICK's attitude, then I, I'm telling you

CATALE:

No, No, No, MARK, it's not NICK's attitude. I'm just trying to read into the situation.

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HERO:

Look, Look.

CATALE:

No, NICK is a little up tight. His wife is due any moment, this is supposed to have come through. The other thing is supposed to be done. You know, there are a lot of things, the guy got a lot pressure on him. In all fairness to him.

HERO:

I'am not knocking the guy. I'am not trying to hurt him. I'am not asking for anything, but all I'am asking for is when the thin is delivered, that, ah, that we keep our our gentleman's agreement. That's all I'am sayin

CATALE:

Ok MARK.

HERO:

I don't want to be turned around and left with, ah, with that type of liability on my head. Because they are not looking toward NICK, they're looking toward me.

CATALE:

Ok MARK. Alright, then we'll get together then.

HERO:

Look, I want your word, you're going to discuss this with NICK. Number one.

CATALE

Ok.

HERO:

And if NICK, wants to change his mind, he better let me know. Because I'am not sticking my neck for this type of liability. I'm willing to do somebody a favor if I go around and get stuck with, you know, this liability, who ne it?

A 48

FMT:mm
18.

NY 58-1835

CATALE:

Ok, MARK, I'll talk to NICK and we'll get together on.

HERO:

If NICK feels this way. Then let me know.

CATALE:

No MARK, MARK, I'am sorry I said it in a sense of good. It's just that the, you know, everything is sort of like riding, and riding, and riding and nothing is being accomplished.

HERO:

Well, look, let me, let me give you an explanation. It's like a baker finishing a beautiful cake. He finishes, he puts it on the counter, it has to be picked up, but the health department comes along and says you can't release that cake.. Unitl, ah.

CATALE:

Hold on a minute MARK, I got somebody here, just hold on one minute.

HERO:

Yeah.

CATALE:

MARK.

HERO:

Yeah.

CATALE:

I'am sorry, go ahead.

HERO:

Oh, its like a baker, beau, baking a beautiful cake that I ordered. He puts it outside ready to be picked up. The health department comes along and says, look, you can't release that cake, because we want to have an inspection that cake to see if its, not, ah, contaminated. ~~the~~ baker says, well I did

FMT:mm
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NY 58-1835

finished. Well the guy says, well look the health department approves it, you get it. The health department doesn't approve it, you don't get it. So, then if the cake is then released, the health department says ok, well it means the guy did his job. If the health department delayed it, its not his fault. Its not the bakers fault.

CATALE:

Alright, like me, ah, like me getting working.

HERO:

Ok.

CATALE:

Hold on a minute, let me just, ah. Ok. Ah, let me, let me, just check, maybe somebody, you know, you say the SEC.

HERO:

Well that's a suggestion, I'am not sure if that's some agency is holding it up.

CATALE:

Because, that gives me food for thought, why the SEC,why should they check into it. We file our 10 Q's and 10 A's, and whatever else has to be filed.

HERO:

Maybe it's not the S, I don't know who it is. But some agency is holding it up.

CATALE:

Ok, MARK I appreciate it very much, and, ah, I'll talk to NICK and everything will work out.

HERO:

Ok.

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A 50

FMT:mm
20.

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CATALE:

Ok? And then we can get together.
Right.

HERO:

Thanks alot.

CATALE:

Bye, Bye.

HERO:

Right, Bye, Bye.

CATALE:

FMT:sar
1.

NY 58-1835

The following is a telephone conversation between NICHOLAS COSTA and MARCUS GEORGE HERO on May 21, 1973:

HERO: Hello.

COSTA: MARK.

HERO: Yes.

COSTA: NICK, How are you?

HERO: Good.

COSTA: OK, What's happening?
I know SAL talked to you on.

HERO: Yeah, did he fill you in?

COSTA: Yeah, he filled me in, I was a little upset that I couldn't talk to you. I have my wife back and forth, you know between, trying to have.

HERO: Did she have it yet?

COSTA: No, she hasn't had it yet. The doctor doesn't what to induce it, so, I didn't come in most of Friday. Ah, I didn't understand a couple things you said to him. Like another agency could be involved, like the SEC, that's not possible. I mean why would they get involved, that's not their.

HERO: Well, what he told me as I told SAL, that the whole thing is approved and finished, there is nothing that this agency can do further to approve it. There is no way, I am quoting then, There is no way that this can be declined.

COSTA: But did SAL tell you how I found out that it had been declined?

HERO: Auh?

FMT:sar

2.

NY 58-1835

COSTA: Did SAL tell you how I found?

HERO: He said some banker.

COSTA: Some banker, yeah, from another bank.

HERO: Well, you would have had a letter by now. The bank would have called you if it was declined. Right?

COSTA: Right, I guess so.

HERO: If it was declined, why wouldn't they pick up a phone, call Bankers Trust.

COSTA: And this was one of the guys that works with SEA.

HERO: Call Bankers Trust, and say to them, look, you know, it's a great package and all that, but sorry we can't do it. Right?

COSTA: Would they call, or just send a letter?

HERO: They would call first, I imagine, and send a letter too.

COSTA: What did your guy say? Did you talk to him over the week end?

HERO: No, he said. No way that thing, the way it has been set up now, can it be returned by this agency, for any reason whatsoever. There is no way.

COSTA Even the Director can't?

HERO: There is no way. There is nothing he can do. The Director just can't arbitrarily turn it down, when three men have worked on it, and written up reports and all have recommended it.

COSTA: I see.

FMT:sar

3.

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HERO: And, you know, they all did their job. What's he going to say, I don't like it? He has to have reasons. He has to have, you know, reasons to do this. You know, three, three top men worked on this, and all of them recommended it. So how can someone say arbitrarily. He said the only way, is if some other agency involved in this is waiting for a report from some other agency, is fine, he said, that's out of our jurisdiction. He said, there is no way this can be turned down, as a result of the work done in this agency. No way.

COSTA: Alright, what do you hear now, that, what's holding it up now then?

HERO: Well, the

COSTA: This guy must have been bomby, may he is crazy, I don't know.

HERO: Well, someone is crazy here.

COSTA: Well, the guy just called me up out of the blue.

HERO: You and I are getting nervous. But we're not crazy, that's for sure. You and I are just waiting for an answer.

COSTA: Yeah.

HERO: So, My man said there is no way this can be turned down. Because it is solidly approved all the way. Every signature, every thing right in order. He said, ah, that's it, he said. If this is going to be turned down, not turned down, as a result of this agency, it could be turned down by some report from some other agency. But, he said, that, that they'd have to give us a reason. You know, they'd have to justify, give you the reason, and then you'd have to respond to that reason. But, he said, not from this agency, it can not be turned down. Everyone has approved it down the line. It's not a matter that they had a split decision. There was no split decision, he said. Unanimously approved.

FMT:sar

4.

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COSTA: OK, OK.

HERO: I am going to be on top of it NICKO.

COSTA: Yeah.

HERO: I fell for you, and ah.

COSTA: Well, you going to be hearing anything in the next.

HERO: Well, I am going to be top, continuous on this.

COSTA: OK.

HERO: He said to me there is no way it can be turned down.

COSTA: Yeah.

HERO: Well, I said, tell us if it is.

COSTA: Can you find out when we are to going to be notified or when the bank is going to notified.

HERO: Well, I am going to try and get that information, if it's possible, I'll get it.

COSTA: OK.

HERO: OK.

COSTA: I mean, how long can they just sit on it?

HERO: Well, they can't sit on it forever, that's a fact. They can not sit on it.

COSTA: I am beginning to think, that's what their going to do. Ha Ha, JESUS. OK.

HERO: Bye.

COSTA: Will you get back to me?

FMT:sar

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NY 58-1835

HERO: Yes I will, NICKO.

COSTA: Bye, Bye.

HERO: Bye, Bye.

NY 58-1835

The following is a telephone conversation between NICHOLAS COSTA and MARCUS GEORGE HERO on June 5, 1973:

COSTA: How's That?

HERO: Yeah.

COSTA: OK, Must be my phone or something then.

HERO: Oh no, you can't tell with these phones today.

COSTA: Alright. GLACKMAN is in his office.

HERO: Right.

COSTA: Alright, you know, I haven't gone, and talked to him as of yet. I'am building up the courage to do so.

HERO: Right.

COSTA: Because ah, now before I talk to him I want to make sure, now, what exactly do you want me to do. How do you want me to handle it? Go over it step by step with me, so I know how to handle it.

HERO: I just want him to call, you know, the R.D.

COSTA: Yeah.

HERO: And then make a regular inquiry. That's all. You know, it's been a long time. What's going on, you know. What's hanging on? We, We understand the procedures are supposed to be two weeks response. And here it is, like, ten weeks, I mean, we don't understand what's going on here.

COSTA: Yeah.

HERO: That's all. Nothing more.

COSTA: Alright, now your people there, sure this is not going to blow up in our face.

HERO: No. No. They are suggesting it.

NY 58-1835

COSTA: They're suggesting it.

HERO: They're suggesting it.

COSTA: Alright, where, in other words, let me understand. The application is sitting on GLACKMAN's desk right now. Not GLACKMAN.

HERO: Yeah, the R.D.

COSTA: On PRIEM's desk right now. And, once GLACKMAN calls him, he'll have to answer him. Because you know, he called him once before.

HERO: Yeah.

COSTA: And, he told him, security clearance haven't come through yet.

HERO: OK. Now, that was five weeks ago.

COSTA: Yeah.

HERO: What kind of security clearance is it going to be here. You're not the President of the United States.

COSTA: What do your people say? Why is it sitting on his desk.

HERO: All they tell me, that, no one can turn it down. They said something about another agency.

COSTA: They said something about another agency.

HERO: Yeah, but that should be cleared right now. It's sitting there, and he's not doing a damn thing with it, OK. He can't reject it. Yet he is not letting it loose. Now if GLACKMAN will call the guy and say look, what's going on, I spoke to you four weeks ago. In a nice way.

COSTA: Yeah.

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HERO: We would like to know what the thing, its supposed to be two weeks. Ah, the manual calls for two weeks, a response. It's not like eight weeks, whatever it is, nine weeks, whatever time.

COSTA: It does call for two weeks response.

HERO: Yeah. Its nine weeks, ten weeks, what ever it is, twelve, whatever has gone by. And, you know, what's going. I spoke to you four weeks ago. What kind of security? I mean, what the. That's it, we'd like to know what's going on. You going to give us a date line? A week, two weeks, five days.

COSTA: Like me ask you again. I have this feeling, you know, I have this feeling I don't think you have anything to do with it. Do you think your guys are holding up for more?

HERO: No, No, No, No, No, No, definitely not. Don't even mention it again. No, it's not true. It is, never, I don't want to talk on this.

COSTA: I understand.

HERO: No, never. They're not, they don't want anymore, ah, tickets to the show, they had enough.

COSTA: I see.

HERO: No, No, No, that, they never asked for any more theatre tickets.

COSTA: I see.

HERO: They never hinted. Not in the slightest way, direct or indirect.

COSTA: They didn't even, indirectly?

HERO: Not any way.

COSTA: They say it's sitting, well, can't they get it off his desk?

HERO: Well, I don't know what the problem is. But they said, that, it's, he can't, he cannot, he cannot reject it.

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COSTA: When should I have him do this?

HERO: As soon as possible, whenever he can.

COSTA: Will they know when he does it? So that.

HERO: Huh?

COSTA: Will they know, or ah.

HERO: Well, when he does, give me a call and I'll notify them. But they'll probably know, but I just want to make sure they know.

COSTA: Right. That's what I want to happen, I want them to know so they can follow right up on it.

HERO: Well, they told me, that, it's, ah, you know, they're suggesting this procedure.

COSTA: They are.

HERO: They are.

COSTA: OK, let me try it.

HERO: He said, there is no way in the world, this guy can turn it down. No way.

COSTA: What's his number?

HERO: I don't know it.

COSTA: Alright.

HERO: You have to call the regular number there and they will give you his direct number.

COSTA: Well, you know, as soon as, as soon as, we close the damn thing, then, I'll bring you those theatre tickets.

HERO: Yeah.

COSTA: Well, SAL will.

HERO: Yeah, for the new, ah, for the new, ah, for the church benefit.

COSTA: Right, So, I mean, aren't they interested in that. They want to see the show, Don't they?

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HERO: Oh yeah, that's what they're telling me, that's why they keep calling me, See, If, you know, to have GLACKEY call for the theatre tickets. And ask him why there is a delay, you know, the church benefit and all that. And find out, you know, they're telling us, in other words, evidently, what I gather, they want to put pressure on him. But he cannot, they said, this agency can not turn it down. There is no way they can turn it down. No way. It is so signed, sealed, and delivered and packaged up, there is no way they can turn it down.

COSTA: OK, I'll get back to you, you going to be in all afternoon?

HERO: Yeah, I should be. May a half an hour in and out, that's all.

COSTA: Well, you going to be in for the next hour?

HERO: Yeah.

COSTA: Because I'm going to call GLACKMAN.

HERO: I just have to go to the bank before three, a local bank.

COSTA: I want to call GLACKMAN and then I want to call you back so you can call your guys, and say GLACKMAN is calling.

HERO: Alright, good.

COSTA: So wait for my call.

HERO: OK.

COSTA: Bye,

HERO: Bye, Bye.

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FMT:emc
(1)

The following is a telephone conversation between NICHOLAS COSTA and MARCUS GEORGE HERO on June 5, 1973.

HERO: Hello.

COSTA: Oh, her you are,
Hi

HERO: Yeah.

COSTA: What, you busy. Your line busy?

HERO: Yeah, my line was busy.

COSTA: OK. Ah, I called him.

HERO: Yeah.

COSTA: You know, I practically, I called him by his first name and the anxiety of everything.

HERO: Yeah.

COSTA: Anyway, I told him, that , ah, we had to know, one way or the other, because we had to find other sources of financing.

HERO: Right.

COSTA: And then he says. Well, look, he says, I can't keep my letter of recommendation quite honestly, open any longer. I knew this was going to happen, I hope you have advised me properly MARK. Because, he says, I'am going to call and I'am going to tell them, that I have to have a determination, because the bank can't keep this, ah.

HERO: They're right

COSTA: So he said, I have to have an answer, so he says, suppose if I press him, and he says, well, then forget it, it's dead, or, take away. He sayd, I'am going to tell them.

FMT:cmc
(2)

HERO: No, No, Don't have, Don't ever have the bank, withdraw it.

COSTA: Well, I can't help it MARK. They're going to do one thing or the other.

HERO: Hold it. Listen. NICK, Don't blow up.

COSTA: Well, I'am blown up because you've victimized me what to do now.

HER: Hold it, let me tell you.

COSTA: BLACKMAN is not in my pocket, I can't tell him what to do.

HERO: I know it, let me speak. let me speak, and then you add accordingly. All I'am saying is, to them you know, we'd like to get this thing resolved. But don't, that's exactly what they may want to do, for him, GLACKMAN, say OK, I'am withdrawing it without prejudice. I don't want him to withdraw it, because this guy can not kill it. Now, do you understand, he can't kill it, I don't want GLACKMAN to say, Well, we're withdrawing it. We want an answer. I want GLACKMAN to say, we want an answer. Yes or no.

COSTA: And then if they say to him well, withdraw it, GLACKMAN is going to want to know why, that's the way he's going to do it.

HERO: Well no, he can't, you can't have him withdraw it.

COSTA: He's not going to withdraw it. He's going to say.

HERO: Ah, NICK, all I want is the following.

COSTA: He's going to say to them the following, let me explain What Mr. GLACKMAN said to me.

FMT:cmc
(3)

HERO: OK

COSTA: He's going to call, PRIEM, and he's going to say to PRIEM, He's saying, you know, It's been a long time, what is the story with the Smoke Watchers SBA loan.

HERO: Good, no problem, good so far.

COSTA: OK. And then if the guy says, the reason he is going to say he has to know, he says, you know, we can't make any legal demands on them.

HERO: We can't hold on forever.

COSTA: To tell them why they haven't sent it to him. GLACKMAN is saying this to me. The only thing I can say to him is that I have a letter of recommendation out, and it's been out for quite some time, and quite honestly, you know, I don't want to leave it out, unless I know, whether or not you're going to do one thing or the other.

HERO: All he has to say, is the program calls.

COSTA: Wait a minute, I can't tell him what to say.

HERO: Yeah, alright.

COSTA: OK, then he said to me, he says, if he tells me that go ahead and withdraw it, I'll ask him why. What, you know, why are they killing it.

HERO: Yeah.

COSTA: And if he doesn't give me an answer, then I am going to tell him that the company wants certain satisfaction.

HERO: Right

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FMT:cmc
(4)

- COSTA: And I said, OK, I says, you know, he says, I'am going to call right now, in the next few minutes. Do you have his number. I said no, he says alright, I'll get it from my secretary. So, you, now, do you have somebody that can, you know, monitor this call. Not móitor it, but stand by, and see.
- HERO: I'am going to call right now.
- COSTA: Is there any way they can listen, to what, ah, hand around PRIEMS desk to see what he says.
- HERO: No, I don't know, but I'am going to call right now.
- COSTA: If that can be, then we can find out what the Hell is in PRIEM's mind. Do you follow me?
- HERO: Yeah. Well, I'am going to find out right now. But don't let him withdraw it, because they cannot kill it.
- COSTA: I can't tell him not to withdraw it at this point. Now, I've made the call. I told him to call and find out, and GLACKMAN has to handle it in his own way. That is what I was afraid of.
- HERO: Because, if they wanted to kill it. If they
- COSTA: He's not going to kill it, kill it, I don't think, I mean, but he's going.
- HERO: No, they, let me say, the R.D. can not disapprove it. Alright.
- COSTA: He cannot.
- HERO: He cannot . Alright, at the same time I don't want the bank saying, it'll be easy for the R.D. just to send it back at the request of GLOCK. At the request of GLOCK, I'am withdrawing it.
- COSTA: Is the I.D., is the R.D. against the company?
- HERO: I don't know. I don't think he is, I don't know.

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FMT:emc
(5)

COSTA: Is there some way to find out?

HERO: I'm going to try and find out. But all I'm saying, is that the R.D. cannot.

COSTA: Go ahead and make your call, because GLACKMAN is probably calling right now.

HERO: Alright, the R.D. cannot kill it. Alright. For the same token, I don't want to make it easy for him by saying, Oh, Mr. GLACKEY you want it back, we'll gladly send it back at your request. I don't want that done. Because that we don't need.

COSTA: OK, alright.

HERO: We want him to tell us in a letter approve or disapprove. That's all we want, an approval or disapproval. And the manual says two weeks we are suppose to have a reply.

COSTA: Yeah, Alright.

HERO: Now its eighteen weeks gone by and all we want is an approval or disapproval That's all we want the bank. That's all they're entitled to.

COSTA: Can't your guy do a little more. After all.

HERO: Alright, I'm going to try right now, bye bye.

COSTA: Alright.

GORDON SAKS & MARK HERO

MEET 10-15-74

SAKS AND HERO

10-15-74

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.**Gx 28**

- Hero Now ah, what happened with Sylvia? You were going to tell me?
- Saks Alright, they both came down.
- Hero Both who?
- Saks Sylvia and her cousin. Sylvia was there on Thursday, the cousin was there on Friday and I was there Wednesday.
- Hero Yea.
- Saks Alright number 1 - I am definitely going to go before a grand jury either next week, or ah the next ten days.
- Hero Yea
- Saks They're going ask about Northstate, or ah, Northstate and Modern Centurh. They asked about Century.
- Hweo They'll talk about those two.
- Saks Yea
- Hero Yea
- Saks That's all they asked me about because I'm on trial for the other one.

Hero They can't touch you on that.

Saks Alright, by the way I didn't get anything from Devine by the way?

Hero I'll call you tonight.

Saks I'm going before a grand jury ah they'll ask me if I sent these letters, and I don't want to say yea or no because they may just put in some phony letter themselves

Hero This guy is stupid, totally stupid.

He's so foxy he's stupid. So what did they ask Sylvia?

Saks Well they asked Sylvia and they asked Moore the same thing they asked me.

Hero Yea

Saks We went over the story. Basically they asked questions about the financial statements and whether they were true or not. And ya know they said to the best of their knowledge they are and I prepared them as the accountant. There's nothing wrong with that.

Hero Yea

Saks Then they asked if they were aware of a 10% payoff on a loan to Joe Spedele.

Hero Are they crazy?

Saks That's what they said.

Hero Yeah 10% payoff on that meat packer?

Saks Yea

Hero They were aware?

Saks Um hum

Hero That's crazy. That's crazy. First of all, I
don't know how the hell, this is just guessing.

Saks Go ahead

Hero They got, they're talking about
10% on everything

Saks That's how they got 10%.

Hero Yeah-right-right- Just between you and I they don't
know a fucking thing, I mean we never talked about
anything on the phone and or anything on any
situation so no one - no one, and Repass was out
of it at the time, right.

Saks Yea, when the Northstate thing came through,
Yea.

Hero Repass was out of it. No one knows, he is just
guessing now. So what did they say?

Saks Of course not.

Hero Yea -- They have nothing on this

Saks Sylvia never met the loan officer, Moore did.

Hero Yea.

Saks Did they ask him that too?

Hero They asked him, well they had about 5 guys
from SBA up there.

Saks Well h e's on this one I know because they
showed it to me.

Hero Yea, amongst the 5 or maybe 6 guys he was
one of them because he worked on the loan
and they asked him ah if he took any money.
Well they didn't start with that, they started
with that ah if he knew anyone no he didn't
know anyone over there and they asked him
about any payoffs, he never took any money.
Never received anything from anyone.

Saks Why do you think they would ask that for?

Hero They're fishing. They're fishing. Because number 1 there is no way they know about any 10%. There is no way. That you ought to know.

Saks They know it from Repass, the know it from whoever he -

Hero They took a general thing that has been going on amongst other people.

Saks OK go ahead.

Hero Because how would they know. You and I know it right? OK

Saks Yeah - go ahead

Hero We never did it on the phone. It was done all over privately

Am I right?

Saks Yes of course

Hero So this is just a wild guess, and the only reason they picked this up, this State thing was ah that your name was distributed probably amongst a lot of names or the bank called in they were a little fishy or suspicious about something. If it had been anybody else's name they wouldn't have bothered. It was your name amongst Devins, amongst Hero amongst Randall and fifty other names. I can give you forty other names you never heard of that are being investigated up there. There is a guy named Dick Davidson

GEW:ilf

I don't know if you know him or not, he's being investigated.

Saks Yea yea I know him from Coppen

Hero Year, he's being investigated all over the place, and they are trying everyone to everything and they are not even related. So if ah you, if my name was on a check over there or your name or Randell's or Dick Davidson's they would have called it down It would make no difference who's name it was.

But they have no more, what else did they ask her?

Saks They asked if she knew about the, that I was involved with the other companies that checks went through. There was those two party checks.

Remember. She sayd yes Because Gordon helped supply the company with some things. He delivered some things he didn't deliver some, the other stuff is coming and ah he owes us about \$10,000, \$12,000 worth of material they think. And then she said that

Hero That's a civil action

Saks It's not even an action, she said just that they're coming and he's had some difficulties so we're not pressing him to get it, ya know all that stuff.

Hero Still at the worst it's a civil action, it's not a federal, I mean that's not a felony or a criminal act.

Hero Now, now they asked her he asked her
did she know that who paid 10%?

Saks I want to tell you Sylvia is not involved in the
management of the company. She only has 5% of
the company as far as the application goes and
everything. She has some percentage deal with
them, but that's for later on.

Hero Yea.

Saks With - with - with - because

Hero What was the exact wording of the question.

Saks I'll tell you what the wording was. Are you
aware that there was a 10% payoff on this loan
to Joseph Spedele?

Hero What a stupid thing. This, you know Repass gave
them the whole format and that's what they are
following. A whole format.

Saks Can you trust Spedele?

Hero Huh

Saks Could you trust Spedele?

Saks I could trust them all. I could trust them all, are
you kidding. They all got pensions up there.
Are you kidding?

Saks Yea but what's going to happen if they get one guy
and then to get his ass off he gets the rest of them.

Hero What can they prove? Here's the point. They have to
prove that there was a payoff.

What idiot is going to say I accepted money? Most of these guys got pensions in there, they got a life and a career. If they say that they accepted, they're finished. And the job, They can't get a job anywhere else.

Saks Your sure about this, because I don't want to go before a

Hero Do you know what the rumor is up at SBA

Saks Yea, ssh, not so loud yea

Hero Do you know what the rumor is up at SBA?

Saks A little bit louder so I can hear.

Hero That you have turned States witness.

Saks That I have turned State's witness

Hero Wilson has set you up. Now what is Wilson doing here. He's trying to turn one person against another.

Saks When did this come up by the way?

Hero Oh, about the last week or so, ten days. After the last trip you made over there, you were over there.

That you have turned State's witness. That's what Dean do you know who Dean is. Dean is head of the legal.

Who's not involved in this, he's under no, he's not investigating anyone. He's not involved as far as the investigations concerned. But there is a number of them being investigated by the guys up there.

a whole slew of them.

Saks That I have turned state witness?

Hero Yea, now what goes around. You know what they told Devin's. That Siviglia has turned state witness.

I know he hasn't.

Saks What did you say when you hear that?

Hero Huh

Saks What did you say when you heard that?

Hero Well I didn't tell, well I said that none had turned state evidence, no one no one no one. The only one who has to my knowledge who has done anything was this guy Repass, and that was affidavit was a lie. The affidavit was a pure lie. So if you haven't turned state evidence they won't turn state evidence and Siviglia is not turning state evidence. They got no one. All they got is

Saks Wilson said that to Dean

Hero Who'd they get to. How would Dean get it. He had to get it through Wilson's office. No that was a deliberate lie, a plant to scare people.

Saks To get somebody to ahh

Hero Open up

Saks Yea, yea

Hero That's what they're doing that's how desperate they are. All they got, is so far, Dick and Dick's story's has been cracked now after nine months of Dick's story hanging on the wall.

Saks Well, Mark, OK. Now, I'm going before a grand jury, and I could really get my ass in a sling if there is a leak someplace - if Spedale is going to

Hero No, I guarantee it. They are more concerned that you would turn state evidence.

Saks Why would I? I'm involved in
Hero Why would they, are you crazy? They'll lose their pensions, they can't get a job anywhere else. See you can free lance I can free lance. No we work freelance. They don't. They are steady government employees. They've built up a pension, if they lose it, where the hell are they going to go? a job? What did you do last? I worked for the government. When they check for reference, what's the government gonna say? Dismissed because they were ahh taking bribes, He's not hired. You know what I mean?
Saks Yea.
Saks Yea
Hero No one has turned, Wilson is so desperate that he's now telling the office, he's leaking deliberately through the office that you have turned state evidence, state evidence. At the same time he's telling Devin's that he's, that Siviglia has turned state, which is not so, I know this for a fact.
Saks Humph.
Hero I don't know about that other guy, guy you remember that other guys name I told you, ahh the one with the magazine.
Saks The magazine
Hero Oh the Island ahh
Saks Oh yea, from ahh
Hero I mentioned that name to you. But he said, he said nasty things. He may have said nasty things about Devins but I don't think there nothing there that gonna be turned state anyway, but ah I don 't know. But I know Siviglia hasn't and I know the people at SBA have not. This I know.

GEW:ilf

Saks I hope you know that I haven't. I what the hell could I

Hero No - No one has, that's why he's desperate

Saks No, but that's very upsetting.

Hero Why

Saks Because somebody's going to crackin there, if they
keep getting -

Hero Nobody's gonna crack. I ahh, I assured everyone, I
assured everyone that nobody has turned state. Why
would they crack?

Saks Hum

Hero Now wait a minute. Let's hear me out Let's assume you
turned state. Right?

Saks Yea

Hero What could you possibly -- You never met any of these
people. You don't know these people. What do you,
what they gonna possibly say, That you have gave them
money?

Saks Yea how could I ahh

Hero You never met them, you don't know them, this is the
God's honest truth. Have you met any or do you
know these people did you ever go out with them? Never.

Saks Yea

Hero OK, Now what can these people say, that they met
you that they know you, that they took money from you,
they never saw you. Now that's the God's honest
truth.

Saks Yea

GEW:ilf

Hero That's the barrier Wilson is going to have a hard time breaking through, they can't break through, because one person doesn't know the other, and that's the truth,

Saks Of there is one other thing.

Hero Yea

Saks They had the file on the ah Camper Park Thing. Not the file, but they had Spano report. Spano had had wrote about 4 pages

Hero Yea

Saks Asking if I went up there or didn't go up there and ah I told you the whole meeting with, in Robson's office.

Hero Yea I remember that screwy thing.

Saks He wrote this whole thing up. I said the loan I wanted to do for somebody up there

Hero I told you its been killed, they killed.

Saks I said it was a loan I wanted to do for someone and we just pulled the loan out and ah we decided not go go through with it. I really don't want to talk about it. But why would Spano write that whole thing?

Hero Well you know, that loan by the way was thrown to a young guy whose not involved, OK? So that - if they check that now, the don't know who the hell to check. If they feel that some connection they have no case, they have to involve this young guy.

Saks Did you hear about the facts that file was pulled or part of it was pulled or something?

Hero No, no. Well Spano, ahh, Spano makes a report, but Spano works for management. Let's say this, Spano is ahh friendly but doesn't know what is going on. But the same time that loan was thrown to a party not part of the group, it was done deliberately. You know if a guy goes around and says Hey, this guy gets 5 loans, this guy gets 5 loans, this guy gets 5 loans, its crazy. Right?

Saks Yea.

Hero But, if the loan thrown here, loans thrown here and loans thrown there, then you got 3 guys. See the big thing he can't - he can't crack up there, the loans, the loans are assigned. That was brought before the grand jury by the way. Are the loans assigned? Do you pick your own loans? Nope. Are the loans assigned? They are. So they can't pick their own loans? Nope. Are the loans assigned? They are. So they can't pick their own loans.

Saks I'm very concerned about Wilson now leaking things on purpose.

Hero What are you concerned about? They can't hurt you.

Saks They're going to get to somebody over there.

Hero Who? And what are they gonna get, will you listen to me? No one, they're more fearful than you may say something.

Saks Yea, I'm the one who has to go before a grand jury and if I start on something, ya know continue it in the court, and somebody is gonna pull the rug out from under me, I'm...

Hero What are they gonna say? They now met you
Saks I'd be so fucked up it's pathetic.
Hwro Wait a minute. They never met you, is that clear.
 They never met you, they don't know you. Did you
 give anyone money? Never. Do they know you.
 Never. They don't know you. At the same time,
 I ahh, they they cannot turn state evidence. What
 are they going to tell them? What are they going
 to tell them? They know you? You never met
 anyone u there. What are they gonna tell them
 that you gave them oney? You never did that.
Saks I met Spedale a couple of times, under different
 names, he doesn't know me as who I am.
Hero You met him once at a Chinese Rest. I was in front
 of ahh, there was an attorney there from SBA there,
 thank God.

, no though be
assured no. One, they are not talking. I mean,
ahh, look if these guys talk they got more to
lose than you. You know they are old timers in there,
if they lost a job there, they can't get a job anywhere
else.

GEW:ilf

Saks Wilson is under the impression that these guys made millions of dollars.

Hero Right.

Saks And the prension doesn't mean anything to them, because what difference does it make, ya know because if they have ahh...

Hero That's so.

Saks But that's ..., I'm just giving you the general atmosphere that I get from being with Wilson. I've been down to see Wilson like 4 or 5 times.

Hero You well let me tell you something. The biggest thing that is going on is the greatest thing is the fact that no one ever met any one. OK, and that's the truth. No one ever gave anything to anyone - and that's the truth. You, there's no perjury there. They were together up front and ahh you ahh, you never met anyone and you never gave anyone anymore. Am I right? Did you give anyone in SBA any money?

Saks No

Hero Alright, that's the truth. Is that perjury? That's the truth, and no one there. They have to say the same thing. They don't know you and never got anything from you, and that's the truty. They asked us about - they already asked us at the ahh, did you receive any money from anyone? and they said no Other than that we were taken out to lunches now and then. He said it was perfectly alright Wilson said. Occassionally we are taken out to lunches.

GLW:ilf

He said it was perfectly OK. They asked him in truth did they ever get any money?

Saks Alright, I must get that stuff from Devins ahh...

Hero Ah I'm going to call him tonight. I'll call him tonight.

He's an ass that guy. He's sp stuped, it's pathetic.

Saks Because you know what Wilson's gonna do, if he could frame this story about me leaking information he is gonna give me four letters of which two of them will be letters that he wrote himself.

Hero Ahh they can't do that.

Saks Yes they can.

Hero That's entrapment, you ask your attorney.

Saks Did I, did I, sign these or not, and if I say yes or no the whole bunch I just want to know what Devins sent so I could say yes I got those.

hero Alright, I'll, I'll call him definitely this afternoon and get his call by this evening. I will work on it the first thing when I get home, within twenty minutes after I get home. I'll call him.

Saks Now Sylvia, is scared shitless that - but she's too minor in the thing that she's not going to be called up before anything

Hero What other question did they ask her.

Saks They asked her about modern century if she was present at Shum Lee Restaurant

Hero Modern Century. Oh yea yea yea

same story about Repass thing. That really she did and
ahh and ah she's very afraid of this kind of thing.

Hero Yea, there's nothing to be afraid. She's not involved.

Saks and she's been bugging me about it. About North
State they just said to her, they asked her questions
about the business and she doesn't really know
anything about the management of the business, it
was for a cousin of hers, she has 5% of the stock,
she has some kind of profit sharing thing after the
loan has been repaid like 10 years from now, she
occasionally goes upstate and takes a look at a
various things Ya know that kind of stuff.

Hero Yea

Saks But then they did zing her with the question
ahh was she aware of ah

Hero She wasn't of the ah 10% she wasn't

Saks Did Joe mention her name, Ya know?

Hero No, that's a bitch.

Saks Now Moore they asked ah for a detailed list of
the expenditures by this week.

Hero Moore doesn't know anyone anyway.

Saks No, he came down here with his hands all dirty
from working on the farm, and it was perfect.

Hero And on top of it he doesn't know anyone.

Saks Yea, No, he doesn't know anything. And yes
he bought some stuff, he didn't buy some stuff
(hic) excuse me.

Hero There's no criminal act in that stuff. There's nothing
criminal, the only thing they brought up was
that your name hopped up in the hopper up there.

GEW:

What happened was anyone with a name hops in
the hopper. Ahh let's see what else.

Saks They seemed to have this 10% as a formula.

Hwro Well they took a formula, they heard it from
one or two guys and that's the formula. They
think its a big syndicate behind this thing.

Saks You see Mark there are some things that aren't
starting to mesh. You see, if you were told
that I turned state's witness.

Hero Yes.

Saks And then you were not told that they asked for
that camper ground file, something is strange there
now.

Hero Well the camper ground file, the only reason

Saks You used to know about any file that was pulled
right? Now you don't.

Hero No, now wait a minute, now that camper ground file,
not I'm not, Look I'm keeping away you understand
that's happening. I'm not seeing people only in
emergencies, I don't want to be seen, I don't
want to be ah I don't talk on the phone, I
don't want to be seen I keep away. There's
nothing that important. If they know about the camper
grounds, so what? You'll know about it, I mean so
what?

Saks Yea, No, but I mean they seem to be telling you some
things and not telling you other things. You think
somebody there is playin' names with you?

Hero No, when one guy went on a vacation, and the other
guy was sick. OK, One guy has cataracts and
was in the hospital, one guy was on vacation.
I'm not keeping in touch, I'm not, I', keeping

GEW:ilf

close so ahh so these are the things. Everything is out already what they know they know, they're not going to know any more. The only reason they know about the camper is because this guy Spano made a report.

Saks Mark I don 't want this thing to fall into bigger shit that it is. I'm afraid of th e stuff that you are getting. Your getting funny information now.
Hero What's funny information I'm telling you the truth

Saks I know your telling me the truth about what your getting but your getting funny kind of
Hero They told me this because they were more concerned whether this was true or not, whether you were doing this or not, And I said no it was not true. I assured them on that. What they heli they got to kid around with here. I told you I don't have to reassure you, it's just common logic. They are through if they get it.

Saks Alright, but you used to know.
Hero They can't get a job, alright.

They say Where did you work last? You say

the government. The government gives a reference like God give you a reference.

Saks Yea.

Hero A bad reference is a bad reference. You could say, Well I worked for Gordon Saks. Well we had a fight, he was jealous.

Saks Yea, Yea Yea

Hero Not from the government, not from a bank

Saks Yea

Hero So they got nothing, nothing to gain by this believe me.

Saks Alright

Hero They have nothing to gain. They got pensions galore in there. Their name, their pensions, their job, their livelihood, their kids. What the hell, I mean basically between the two of you they have more to lose than you have.

Saks I'm really worried about Spedale, because his name is going to come up with Francis too. when that comes to trial, if I go to trial.

Hero What are you worried about Spedale, what's point are you worried about. Let me know what you're worried about Spedale and I'll take care of it, or any of these guys. What are you worried about Spedale

Saks Alright, yea they mentioned his name to Sulvia

Hero Sure they mentioned it to her because he happened to work on that loan. Spedale happened to work on that loan.

Saks OK

Hero Who else did they mention, John Doe's name? The only one guy who worked on that loan was Spedale

Saks OK.

Hero No I feel a little better now for the fact that ah that Wilson could do this to go to these extremes. Its really has it - it's really very circumstantial what he has, he doesn't have a solid case. And now with this Dick Repass lie, and Dick Repass is the only one who can speak for himself. If Dick Repass got a deal, how does Dick Repass look? People don't believe because this guy got a deal, they're gonna believe that he's the only one without evidence.

Saks Just stick by my story will ya, don't let me get hung up.

Hero Huh

Saks Just stick by

Hero Wait a minute, wait a minute, Between Dick Repass there's only you and I and Dick Repass Ok. No one, no one knows about that, what happened and you and I know the truth that Repass took that money

Saks OK

Hero How can you commit perjury when nobody else knows about it. It could be Dick's word against you and I.

Saks Well that's the way it stands now.

Hero Alright so how, how can we get hurt on that as far as perjury is concerned.

Dick went to the bank. You admit to that.

Did you take money out. You admit that.

You got to the restaurant. You admit to that.

Saks Sylvia was there.

Hero Your admitting to all that you're not lying. But whether it was given to me or Dick only three people know about it.

Saks Right

Hero And we know it went to Dick.. Now who is gonna break the story?

Saks OK let's get

Hero There's no one no one who can break that story

Saks OK

Hero and Wilson in my estimation is very desperate.

Saks Well assure your friends that I'm not doing anything ahh

Hero Yes I told them this already, I assured them up and down. No, even look, even if you were, what can they do, they're can't do nothing they're not going to go and admit it.

What the hell are they going to admit.

Admit what to what. that they saw you, that they got money from you, what are they going to admit to.

Saks Yea.

Hero You don't even know what they look like

Saks No.

Hero That's better, let's keep it that way, You don't have to know their names you don't know what they look like.

How long ago did you hear about indictments?

Tell me.

Saks Well back in November of last year when we first met.

Hero OK Devins the FBI told Devins they'd have indictments three weeks in June. Alright July. Why haven't they issued indictments, because they like to go on and on and on. Because they haven't enough evidence to issue indictments. That's why they don't have indictments. I mean if he had all the evidence he needed, would he be fooling around he'd issue indictments and get it over with. He has to call the grand jury every week, every two weeks, he keeps calling and calling, he calls people, in his office, he keeps saying someone is talking someone is talking, we know the fact no one is talking and we knew the key points he can't prove. He'll never prove the key points.

Saks Yea.

Hero It is impossible forgetting about the Dick Repass situation, which he can never prove, we know Dick lied - so forgetting about that-how is he going to prove which is untrue, that anyone ever got money out of SBA. Has he got checks? Has he got receipts, has he got something, he's got nothing. He's going to get up and say that people ahh ahh ahn and the judge is going to say well how are you going to prove this? Under what circumstances. I don't know, I don't know these people, these packing people - I don't even know them, I never met the people. So what is he goona say that Hero who hasn't who doesn't know any of these people. I don't know what the hell you're talking about the whole thing, and that

Hero They paid me money, which they never did, and I paid it to someone else, which I never did. How is going to put all this together?

Saks OK

Hero You figure, how the hell is he going to put all this together?

Saks Well, I know, the fact that he's asking for names

Hero It's disturbing, it's disturbing. What name

GEW:ilf

He said you paid 10%. We know where he got the 10%. He thinks it's a syndicate, and I'll tell you a few other things that you don't know. He tied in to one of the deals - Dick Davidson. He's tied a couple of those deals into back and forth they're all involved which is so far from the truth Ya know is so far from the true records that it is laughable if it wasn't annoying. He's tied everyone here, back and forth, and up and down with all sorts of accusations, inuendoes, and scare tactics and harrassment and all this crap. He's done this

Hero He'll say that you're talking. He'll say Siviglia's talking, he'll say that he'll say to Sylvia, ahh did you know take, he took 10% ya know. Do you know that 10% did you pay to so and so. All this. All this. Where did he ever get his information that someone got 10%. We know about 10% both ok.

You never by phone, never discussed it on the telephone

Saks No

Hero So how the hell are they going to prove this.

Saks Yea.

Hero How the hell are they going to prove this, He's just got one formula, he believes it's syndicate, he's got a number of names and he's throwing this formula out all over the place. And another thing the phone calls. You know he's full of shit now.

Saks Yea.

Hero If he had picked another date, in fact if they had picked three days later than the day he picked, he picked a Friday, by the way.

If he had picked that Monday we could have been by a little curious the guy happened to be in the office Friday, or Monday.

Saks Yea

Hero But not that Friday. He happened to be on in the office. But if the guy said Monday, He's say yea, how the hell did he get his information?

Saks Yea

Hero But he happened to pick a Friday. So what does that mean. This guy is full of shit. He's got something, that he's learned, like from Repass or certain things, which now the credibility of Repass after nine months is being questioned

Saks Well it's being seriously questioned. It's torn apart in fact.

Hero And there is only three people who know that story and you and I are telling the truth. We hate to do this to Dick, but we have to tell the truth.

Hero So now if he had picked a Monday instead of a Friday, we would have said "Cee, maybe he's got information, and we biting our fingernails. Right? But he picked a Friday and the guy was away, way way way he was away for the whole week. He never called anyone he was in a swimming pool.

Form 280 A - Affidavit of Service by Mail

AFFIDAVIT OF MAILING

STATE OF NEW YORK) ss.:
COUNTY OF NEW YORK)

Alice Prokopik being duly sworn,
deposes and says that she is employed in the office of the
United States Attorney for the Southern District of New York.

That on the 24th day of February, 1976
she served a copy of the within Appeal Brief and appendix
by placing the same in a properly postpaid franked envelope
addressed:

Martin E. Gotkin, Esq.
250 West 57th Street
New York, New York

And deponent further says that she sealed the said envelope
and placed the same in the mail drop for mailing
the United States Courthouse, Foley Square,
Borough of Manhattan, City of New York.

Alice Prokopik

Sworn to before me this

24th day of February, 1976
Ralph L. Lee

RALPH L. LEE
Notary Public, State of New York
No. 41-2292838 Queens County
Term Expires March 30, 1976

